

By: Nelson

S.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 15.051, Code of Criminal Procedure, is amended to read as follows:

Art. 15.051. REQUIRING POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED. (a) A peace officer or an attorney representing the state may not require a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

(b) If a peace officer or an attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a), the officer or attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely:

(1) because a complainant did not take a polygraph examination; or

(2) on the basis of the results of a polygraph examination taken by the complainant.

(c) A peace officer or an [An] attorney representing the

3-5-97
3-12-97
5-20-97

1 state may not take a polygraph examination of a person who charges ¹/₂
2 or seeks to charge the commission of an offense listed in
3 Subsection (a) unless the officer or attorney provides the
4 information in Subsection (b) to the person and the person signs a
5 statement indicating the person understands the information.

6 (d) A complaint may not be dismissed solely:

7 (1) because a complainant did not take a polygraph
8 examination; or

9 (2) on the basis of the results of a polygraph
10 examination taken by the complainant.

11 SECTION 2. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended,
16 and that this Act take effect and be in force from and after its
17 passage, and it is so enacted.

1-1 By: Nelson S.B. No. 467
1-2 (In the Senate - Filed February 6, 1997; February 11, 1997,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 5, 1997, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; March 5, 1997, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to prohibiting a peace officer or attorney representing
1-9 the state from requiring that certain complainants submit to
1-10 polygraph examinations.

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1-15 PROHIBITED. (a) A peace officer or an attorney representing the
1-16 state may not require a polygraph examination of a person who
1-17 charges or seeks to charge in a complaint the commission of an
1-18 offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

1-19 (b) If a peace officer or an attorney representing the state
1-20 requests a polygraph examination of a person who charges or seeks
1-21 to charge in a complaint the commission of an offense listed in
1-22 Subsection (a), the officer or attorney must inform the complainant
1-23 that the examination is not required and that a complaint may not
1-24 be dismissed solely:

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1-26 examination; or

1-27 (2) on the basis of the results of a polygraph
1-28 examination taken by the complainant.

1-29 (c) A peace officer or an [Am] attorney representing the
1-30 state may not take a polygraph examination of a person who charges
1-31 or seeks to charge the commission of an offense listed in
1-32 Subsection (a) unless the officer or attorney provides the
1-33 information in Subsection (b) to the person and the person signs a
1-34 statement indicating the person understands the information.

1-35 (d) A complaint may not be dismissed solely:

1-36 (1) because a complainant did not take a polygraph
1-37 examination; or

1-38 (2) on the basis of the results of a polygraph
1-39 examination taken by the complainant.

1-40 SECTION 2. The importance of this legislation and the
1-41 crowded condition of the calendars in both houses create an
1-42 emergency and an imperative public necessity that the
1-43 constitutional rule requiring bills to be read on three several
1-44 days in each house be suspended, and this rule is hereby suspended,
1-45 and that this Act take effect and be in force from and after its
1-46 passage, and it is so enacted.

1-47 * * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 467
By Nelson
(Author/Senate Sponsor)
3/5/97
(date)

Sir:

We, your Committee on CRIMINAL JUSTICE, to which was referred the attached measure, have on 3/4/97, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass and be printed
☐ do pass and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Whitmire, Chairman	<input checked="" type="checkbox"/>			
Senator Shapiro, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Nelson	<input checked="" type="checkbox"/>			
Senator Patterson			<input checked="" type="checkbox"/>	
Senator Shapleigh	<input checked="" type="checkbox"/>			
Senator West	<input checked="" type="checkbox"/>			
TOTAL VOTES	<u>5</u>	<u>0</u>	<u>2</u>	<u>0</u>

COMMITTEE ACTION

☒ S260 Considered in public hearing
☒ S270 Testimony taken

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

BILL ANALYSIS

Senate Research Center

S.B. 467
By: Nelson
Criminal Justice
2-24-97
As Filed

DIGEST

Currently, Texas law places limitations on administering a polygraph examination to certain persons. The caption of Article 15.051, Code of Criminal Procedure, is inconsistent with the text of its provisions. The caption reads "Polygraph Examination of Complainant Prohibited." In fact, a complainant may elect to submit to a polygraph examination, and a peace officer or attorney representing the state may request that the complainant submit to a polygraph examination, but a complainant may not be required to submit to the examination. The caption is confusing and causes some inexperienced law enforcement personnel to wrongly conclude that a complainant may not submit to a polygraph examination under any circumstances. This bill will amend the caption of Section 15.051, Code of Criminal Procedure, to more accurately reflect the contents of the provision, and prohibit an attorney representing the state from requiring a polygraph examination of certain persons and if a polygraph examination is requested, peace officers and attorneys representing the state will be required to inform the person of certain information.

PURPOSE

As proposed, S.B. 467 amends the caption of Section 15.51, Code of Criminal Procedure, to more accurately reflect the contents of the provision and prohibits attorneys representing the state from requiring a polygraph examination of certain persons and requires peace officers and attorneys representing the state to inform those persons of certain information if a polygraph examination is requested.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 15.051, Code of Criminal Procedure, as follows:

Art. 15.051. New heading: **REQUIRING POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED.** Prohibits an attorney representing the state from requiring a polygraph examination of certain persons. Requires a peace officer, if the peace officer requests a polygraph examination of a certain person, to inform the person of certain information. Makes conforming changes.

SECTION 2. Emergency clause.
Effective date: upon passage.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

February 28, 1997

To: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: Senate Bill No. 467
By: Nelson

From: John Keel, Director

In response to your request for a Fiscal Note on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by SB467-As Introduced

No significant fiscal implication to the State is anticipated.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Criminal Justice Policy Impact Statement

February 28, 1997

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: Senate Bill No. 467
By: Nelson

FROM: **John Keel**, Director

In response to your request for a Criminal Justice Policy Impact Statement on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

WITNESS LIST

SB 467
SENATE COMMITTEE REPORT
Criminal Justice Committee

March 4, 1997 - 9:00A

For: Flanagan, Ben (Grapevine Police Dept.), Grapevine

Registering, but not testifying:

For: Clark, Mark (CLEAT), Austin

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 467, by: Nelson,
(Bill No.) (Author/Sponsor)
was heard by the Criminal Justice Committee on 3/4, 1997,
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Diana Sellers
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM AND TEN (10) COPIES OF YOUR BILL/RESOLUTION
(COMMITTEE PRINTED VERSION) MUST BE DELIVERED TO THE ADMINISTRATION COMMITTEE
OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS WILL BE ANNOUNCED ON A REGULAR
BASIS.

March 13 1997 Engrossed

Ratney Shaw
Engrossing Clerk

I certify this to be a true and correct
copy of the legislative enactment as
enacted or transmitted to committee.

Chief Clerk of the House

By: Nelson
(Place)

S.B. No. 467

A BILL TO BE ENTITLED

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11 offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

12 (b) If a peace officer or an attorney representing the state
13 requests a polygraph examination of a person who charges or seeks
14 to charge in a complaint the commission of an offense listed in
15 Subsection (a), the officer or attorney must inform the complainant
16 that the examination is not required and that a complaint may not
17 be dismissed solely:

18 (1) because a complainant did not take a polygraph
19 examination; or

20 (2) on the basis of the results of a polygraph
21 examination taken by the complainant.

22 (c) A peace officer or an [An] attorney representing the
23 state may not take a polygraph examination of a person who charges

S.B. No. 467

1 or seeks to charge the commission of an offense listed in
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3 information in Subsection (b) to the person and the person signs a
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10 SECTION 2. The importance of this legislation and the
11 crowded condition of the calendars in both houses create an
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13 constitutional rule requiring bills to be read on three several
14 days in each house be suspended, and this rule is hereby suspended,
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16 passage, and it is so enacted.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

February 28, 1997

To: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: Senate Bill No. 467
By: Nelson

From: John Keel, Director

In response to your request for a Fiscal Note on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by SB467-As Introduced
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No significant fiscal implication to the State is anticipated.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Criminal Justice Policy Impact Statement

February 28, 1997

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: Senate Bill No. 467
By: Nelson

FROM: **John Keel**, Director

In response to your request for a Criminal Justice Policy Impact Statement on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

HOUSE COMMITTEE REPORT

1st Printing

By: Nelson
(Place)

S.B. No. 467

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19 examination; or

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21 examination taken by the complainant.

22 (c) A peace officer or an [An] attorney representing the
23 state may not take a polygraph examination of a person who charges

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13 constitutional rule requiring bills to be read on three several
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15 and that this Act take effect and be in force from and after its
16 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

05-14-97
(date)

Sir:

We, your COMMITTEE ON CRIMINAL JURISPRUDENCE

to whom was referred SB 467 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

- ☒ yes ☐ no A fiscal note was requested.
☒ yes ☐ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.

☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor PLACE

Joint Sponsors: / / /

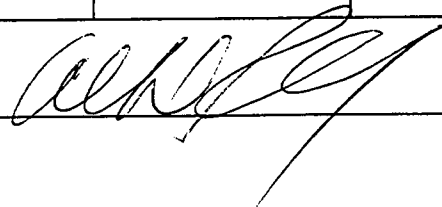
Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Place, Chair	X			
Talton, Vice-chair	X			
Dunnam	X			
Farrar	X			
Galloway				X
Hinojosa				X
Keel	X			
Nixon				X
Reyna, A.	X			

Total 6 aye
0 nay
0 present, not voting
3 absent

CHAIR



BILL ANALYSIS

CRIMINAL JURISPRUDENCE

S.B. 467

By: Nelson (Place)

5-14-97

Committee Report (Unamended)

BACKGROUND

Currently, Texas law places limitations on administering a polygraph examination to certain persons. The caption of Article 15.051, Code of Criminal Procedure, is inconsistent with the text of its provisions. The caption reads "Polygraph Examination of Complainant Prohibited." In fact, a complainant may elect to submit to a polygraph examination, and a peace officer or attorney representing the state may request that the complainant submit to a polygraph examination, but a complainant may not be required to submit to the examination. The caption is confusing and causes some inexperienced law enforcement personnel to wrongly conclude that a complainant may not submit to a polygraph examination under any circumstances. This bill will amend the caption of Section 15.051, Code of Criminal Procedure, to more accurately reflect the contents of the provision, and prohibit an attorney representing the state from requiring a polygraph examination of certain persons and if a polygraph examination is requested, peace officers and attorneys representing the state will be required to inform the person of certain information.

PURPOSE

As proposed, S.B. 467 amends the caption of Section 15.051, Code of Criminal Procedure, to more accurately reflect the contents of the provision and prohibits attorneys representing the state from requiring a polygraph examination of certain persons and requires peace officers and attorneys representing the state to inform those persons of certain information if a polygraph examination is requested.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 15.051, Code of Criminal Procedure, as follows:

Art. 15.051. New heading: **REQUIRING POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED**. Prohibits an attorney representing the state from requiring a polygraph examination of certain persons. Requires a peace officer, if the peace officer requests a polygraph examination of a certain person, to inform the person of certain information. Makes conforming changes.

SECTION 2. Emergency clause.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

March 26, 1997

To: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House
Austin, Texas

IN RE: Senate Bill No. 467, As
Engrossed
By: Nelson

From: John Keel, Director

In response to your request for a Fiscal Note on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by SB467-As Engrossed

No significant fiscal implication to the State is anticipated.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

February 28, 1997

To: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: Senate Bill No. 467
By: Nelson

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LEGISLATIVE BUDGET BOARD
Criminal Justice Policy Impact Statement

March 26, 1997

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Committee on Criminal Jurisprudence
House
Austin, Texas

IN RE: Senate Bill No. 467, As
Engrossed
By: Nelson

FROM: **John Keel**, Director

In response to your request for a Criminal Justice Policy Impact Statement on SB467 (Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

LEGISLATIVE BUDGET BOARD
Criminal Justice Policy Impact Statement

February 28, 1997

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 Committee on Criminal Justice
 Senate
 Austin, Texas

IN RE: Senate Bill No. 467
 By: Nelson

FROM: **John Keel**, Director

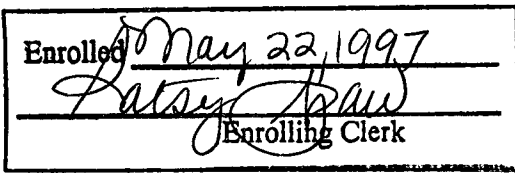
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SUMMARY OF COMMITTEE ACTION

SB 467

May 14, 1997 9:00AM
Considered in formal meeting
Recommended to be sent to Local & Consent
Reported favorably without amendment(s)



S.B. No. 467

AN ACT

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16 passage, and it is so enacted.

S.B. No. 467

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 467 passed the Senate on
March 13, 1997, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 467 passed the House on
May 21, 1997, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

March 26, 1997

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Committee on Criminal Jurisprudence
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Austin, Texas

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Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Austin, Texas

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March 26, 1997

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3/4cert

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 467 passed the Senate on March 13, 1901, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 467 passed the House on May 2, 1901, by the following vote: Yeas 28, Nays 4.

Chief Clerk of the House

Approved:

Date

Governor

S.B. No. 467

By Nelson

A BILL TO BE ENTITLED

AN ACT:

relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.

2-6-97

Filed with the Secretary of the Senate

FEB 11 1997

Read and referred to Committee on CRIMINAL JUSTICE

MAR 5 1997

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

MAR 13 1997

Senate and Constitutional Rules to permit consideration suspended by: { ~~unanimous consent~~
31 yeas, 0 nays

~~MAR 13 1997~~

Read second time, _____, and ordered engrossed by: { ~~unanimous consent~~
~~a viva voce vote~~
____ yeas, ____ nays

MAR 13 1997

Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.

MAR 13 1997

Read third time, _____, and passed by: { ~~A viva voce vote~~
31 yeas, 0 nays

Betty King

SECRETARY OF THE SENATE

OTHER ACTION:

MAR 13 1997 Engrossed

March 13, 1997 Sent to House

Engrossing Clerk

Ratay Graw

MAR 13 1997

Received from the Senate

MAR 17 1997

Read first time and referred to Committee on Criminal jurisprudence

MAY 14 1997

Reported _____ favorably (~~as amended~~) (~~as substituted~~)

MAY 15 1997

Sent to Committee on (~~Calendars~~) (Local & Consent Calendars)

MAY 21 1997

Read second time (~~unanimous consent~~) (~~as amended~~); passed to third reading (~~failed~~) by a (non-record vote) (~~record vote of~~ _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

MAY 21 1997

Read third time (~~as amended~~); finally passed (~~failed to pass~~) by a (non-record vote) (~~record vote of~~ _____ yeas, _____ nays, _____ present, not voting)

MAY 21 1997

Returned to Senate.

Sharon Carter

CHIEF CLERK OF THE HOUSE

MAY 21 1997

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays